

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MICK HAIG PRODUCTIONS, E.K.,

Plaintiff,

V.

DOES 1-670

Defendant.

No. 3:10-cv-01900-N

**DEFENDANTS' MOTION TO EXTEND TIME TO FILE A REPLY (OR IN THE
ALTERNATIVE FOR LEAVE TO FILE A RESPONSE) IN SUPPORT OF
THEIR MOTION FOR ATTORNEY'S FEES OR SANCTIONS**

Pursuant to Civil Local Rule 7.1, Defendants hereby move for an extension of time in which to file a reply in support of their motion for sanctions, originally filed on February 11, 2011. In the alternative, Defendants seek leave to file a response to Plaintiff's Response Regarding Case Activity, originally filed on April 15, 2011. Plaintiff has consented to the filing of this motion. *See* Affidavit of Matthew Zimmerman of May 27, 2011 ("Zimmerman Aff.") at ¶ 2.

On April 1st, 2011, in response to Defendants' Motion for Sanctions which alleged that Plaintiff's counsel unlawfully served subpoenas on several Internet service providers ("ISPs") for the purpose of coercing settlements of claims of alleged pornography downloading, this Court issued an Order requiring Plaintiff's counsel to disclose all actions taken by him in connection with issuing subpoenas. Specifically, this Court ordered the disclosure by April 15, 2011, of: (1) any communications with or materials produced by any ISP; (2) any issued subpoena and accompanying documents; (3) any communications with the Defendant Does or their representatives (excluding attorneys ad litem previously appointed); (4) any communications concerning settlement; and (5) any funds received from or on behalf of any Doe Defendant. Plaintiff's Counsel was instructed to reply no later than April 15, 2011. Docket No. 11.

Plaintiff's Response to this Order was filed within the time frame set forth by the Court. However, Plaintiff did not serve a copy of its filings on the undersigned counsel or otherwise indicate that the material had been filed. Instead, the Court contacted Defendants' counsel on May 11, 2011, and informed them of Plaintiff's filing. *See* Affidavit of Paul Levy of May 27, 2011 ("Levy Aff.") at ¶ 2. The undersigned were only provided access to Plaintiff's filed material on May 18, 2011. *See id.* at ¶ 3. This motion is made within 14 days of being provided access to Plaintiff's filing, what would otherwise have been a timely filing under Local Civil Rule 7.1.

Defendants' proposed Reply (see attached) will help the Court evaluate their sanctions motion because it explains how Plaintiff's Response contains incorrect statements of law and even fails to comply fully with the Court's Order of April 1, 2011. For example, although

Plaintiff provided copies of the subpoenas and accompanying documents issued to Internet service providers by the Plaintiff, it does not disclose or include materials produced by ISPs in response to Plaintiff's illegitimate subpoenas. Plaintiff has also failed to disclose communications with Defendant Does or their representatives.

In order to briefly explain provide context for the deficiencies of Plaintiff's Response, Defendants respectfully request permission to file the attached Reply.

Dated: May 27, 2011

Respectfully submitted,

/s/ Matthew Zimmerman
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Certificate of Service

On May 27, 2011, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or parties of record electronically or by another manner authorized by Federal rule of Civil Procedure 5 (b)(2).

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